



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**DEC 18 2015**

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

Article No.: 7014 1200 0000 6124 0213

The Honorable Shelley Hansel  
Mayor, City of Wellington  
317 South Washington  
Wellington, Kansas 67152

Re: Request for Information Pursuant to Section 308 of the Clean Water Act  
(33 U.S.C. § 1318)

**IMMEDIATE ATTENTION REQUIRED  
INCREASED SAMPLING TO BEGIN NO LATER THAN JANUARY 4, 2016**

Dear Mayor Hansel:

This letter requests information regarding compliance by the City of Wellington, Kansas, with requirements of its National Pollutant Discharge Elimination System Permit No. KS0099571.

On June 15 through 18, 2015 the U.S. Environmental Protection Agency, Region 7 performed a sampling inspection of the City of Wellington's wastewater treatment plant. A copy of the EPA inspection report was sent to Mr. Gilbert Berryman by letter dated August 20, 2015. While all three of the daily samples taken during the inspection were well in compliance with the City's Biochemical Oxygen Demand and Total Suspended Solids limits, the sample results for ammonia, for each of the three samples, exceeded the monthly average limit for ammonia. In addition, influent sampling indicated very high BOD and TSS loading on the first day of sampling.

Concurrent with sampling the City's wastewater, the EPA also sampled the wastestream from Elkhorn Valley Packing. It too, had an elevated discharge on the first day of sampling leading the EPA to believe this is the source of the City's elevated organic loads.

The City has violated its ammonia limits periodically over the past few years, but because it is only required to sample its influent and effluent once per month there is insufficient data to determine if high influent loadings are behind the City's ammonia violations. Consequently, the agency is requiring the City to increase its sampling frequency in an effort to determine the cause of the ammonia violations.

This letter, with its enclosures, is a request for increased sampling and submission of information issued pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. 1318(a). Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the agency to require any person subject to the CWA to provide information required to carry out the objectives of the CWA, including to determine whether there has been a violation of the CWA. Pursuant to Section 308, you are required to collect and analyze samples and provide the information identified in the enclosed Information Request (Enclosure 1). Please read

the instructions in the enclosure carefully before preparing your response. A signed Statement of Certification (Enclosure 2) must accompany your response.

The information required herein must be submitted notwithstanding any claim you may have concerning confidentiality. If you wish to assert a claim of confidentiality concerning information submitted in response to this letter, you may do so pursuant to the provisions of 33 U.S.C. § 1318 and 18 U.S.C. § 1905, as further described in the enclosed instructions. The agency will consider and process such a request pursuant to said statutes and the agency regulations at 40 C.F.R. Part 2, Subpart B.

Please be advised that submission of false information may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further note that the agency reserves its right to pursue appropriate enforcement actions under Section 309 of the CWA, 33 U.S.C. § 1319, including penalties, for violations of the CWA, including those discovered as a result of the agency's June 2015 inspection.

We appreciate your prompt attention to this matter. If you or your staff would like an opportunity to confer, or have any questions relating to this information request, please contact Paul Marshall at (913) 551-7419 or Patricia Miller, the attorney assigned to this matter at (913) 551-7283. Thank you for your cooperation.

Sincerely,



Karen A. Flournoy  
Director

Water, Wetlands and Pesticides Division

Enclosures

cc: Mike Tate, Kansas Dept. of Health and Environment  
Gilbert Berryman, Wellington Supervisor, Waste Water

**INFORMATION REQUEST****Re: City of Wellington, Kansas**

This information is requested by the U.S. Environmental Protection Agency pursuant to Section 308 of the Clean Water Act (CWA or Act), 33 U.S.C. § 1318.

**I. Instructions**

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.
2. If any answer or document cannot be provided in full, provide the answer or document(s) to the extent possible along with an explanation of why the question cannot be answered or document cannot be provided in its entirety.
3. Certification: The Statement of Certification found in Enclosure 2 must be submitted along with your responses every time a submission is made pursuant to this information request. This statement must be a person authorized to sign reports pursuant to 40 C.F.R. § 122.22(b). For your convenience the text of 40 C.F.R. § 122.22(b) is included on Enclosure 2.
4. Confidential Business Information: If you believe any of the requested information is confidential, you may assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. Information requested by this letter, however, must be submitted to the EPA regardless of such a claim of confidentiality. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

**II. Definitions**

Unless otherwise indicated, all terms used in this request have the meaning and definition as stated in Section 502 of the C.W.A., 33 U.S.C. § 1362, and regulations promulgated thereunder, including 40 CFR §§ 122.2 and 403.3.

**III. Requested Information**

Note that except for a cover letter or memorandum and the Statement of Certification, 1) only copies, and not original documents, should be submitted pursuant to this request, and 2) documents and data may be submitted either in hard copy form or in electronic form on a compact disk or flash drive in PDF, Word, Excel or other widely available electronic format.

**Preliminary Information**

1. Identify the person to contact regarding your response, including title, address and phone number.

2. Your responses to the questions are to be provided by a qualified professional. Provide the name and credentials of the person(s) providing information in response to this Information Request.

### **Sampling, Analysis and Reporting Requirements**

3. All sampling required by this Information Request shall **commence as soon as possible, but no later than January 4, 2016, and continue through at least March 31, 2016.**
4. **City Influent and Effluent.** In addition to all pollutant monitoring as required by NPDES permit KS0099571, the City shall also collect and analyze samples at both its influent and effluent locations, as described in the permit, **at least three times per week** for five-day Biochemical Oxygen Demand (BOD<sub>5</sub>), Total Suspended Solids (TSS), Total Kjeldahl Nitrogen (TKN) and flow. Samples for both the influent and effluent BOD<sub>5</sub>, TSS and TKN shall be 24-hour composites with aliquots taken no less frequently than every 30 minutes.
5. **Contribution from Elkhorn Valley Packing.** The City shall continue to collect and analyze samples from Elkhorn Valley Packing's effluent using the sampling location historically used by the City **at least once per week** for BOD<sub>5</sub>, TSS and TKN. If flow measurement information is available, it shall be acquired and reported.
6. **Discharge Monitoring Reports.** Please note that Discharge Monitoring Reports (DMRs) submitted to the Kansas Department of Health and Environment must include the results of all pollutant monitoring, as required by Standard Condition 4 of the permit.
7. **Monthly Reports of Sampling Results to the EPA.** The results from all sampling required above shall be compiled into a report at the end of each calendar month that includes a copy of all sampling data, the day and date on which the samples were taken, the specific location, and the flows measured during the sampling period. The report shall also include a copy of the DMR for that reporting period and a completed Statement of Certification (Enclosure 2).
8. **Submissions to the EPA.** Each monthly report, as described in Paragraph 7 above, shall be postmarked and submitted to the EPA no later than 28 days after the end of the month of sampling (i.e., **February 28, March 28 and April 28, 2016**). All submissions shall be sent in a manner that allows you to track delivery and shall be addressed as follows:

**Paul Marshall  
Environmental Scientist (WWPD/WENF)  
U.S. Environmental Protection Agency Region 7  
11201 Renner Blvd.  
Lenexa, Kansas 66219**

## ENCLOSURE 2

### STATEMENT OF CERTIFICATION

(To be submitted with every response to the Information Request)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

#### **40 C.F.R. § 122.22(a). Signatories to permit applications and reports.**

(1) **For a corporation.** By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

*Note: EPA does not require specific assignments or delegations of authority to responsible corporate officer identified in Sec. 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Sec. 122.22(a)(1)(ii) rather than to specific individuals.*

(2) **For a partnership or sole proprietorship.** By a general partner or the proprietor, respectively; or

(3) **For a municipality, State, Federal, or other public agency.** By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

